

## IMPLEMENTING ARRANGEMENT

BETWEEN

THE DEPARTMENT OF ENERGY  
OF THE UNITED STATES OF AMERICA

AND

THE ADMINISTRATION OF THE STATE BORDER GUARD SERVICE  
OF UKRAINE

FOR COOPERATION IN THE AREA OF PREVENTION OF  
ILLCIT TRAFFICKING IN NUCLEAR AND OTHER RADIOACTIVE  
MATERIAL

The Department of Energy of the United States of America (DOE), as an implementing agent of the Department of Defense of the United States of America, and the Administration of the State Border Guard Service of Ukraine (ASBG), as an implementing agent designated by the Cabinet of Ministers of Ukraine to implement the provisions of the Agreement between the Department of Defense of the United States of America and the Ministry of Economy and European Integration Issues of Ukraine on the Provision of Assistance to Ukraine in Establishing an Export Control System in Order to Prevent the Proliferation from Ukraine of Weapons of Mass Destruction of October 22, 2001, as amended (the "Export Control Agreement"), DOE and ASBG hereinafter collectively referred to as the "Parties";

Implementing the Export Control Agreement with respect to the provision of assistance, at no cost to Ukraine, in the form of portal monitoring equipment, training and services to prevent illicit trafficking of nuclear and other radioactive material at mutually determined points of entry/exit of Ukraine;

Have agreed as follows:

## Article 1

1. This Implementing Arrangement and all activities undertaken in accordance with this Implementing Arrangement shall be subject to and governed by the provisions of the Export Control Agreement, which is subject to the Agreement between the United States of America and Ukraine Concerning Assistance to Ukraine in the Elimination of Strategic Nuclear Arms, and the Prevention of Proliferation of Weapons of Mass Destruction of October 25, 1993, as amended and extended (hereinafter referred to as the "Umbrella Agreement").
2. In order to assist Ukraine in preventing the illicit trafficking of nuclear material and other radioactive material through points of entry/exit of Ukraine, by exercising effective control over the movement of nuclear material and other radioactive material through improved detection and identification systems, the DOE, through its National Nuclear Security Administration, may provide, at no expense to Ukraine, equipment, supplies and materials, as well as training and services, in accordance with the terms of this Implementing Arrangement.
3. The ASBG shall use the equipment, supplies and materials received, and the training and services provided in accordance with this Implementing Arrangement, only to implement measures to detect and identify nuclear material and other radioactive material for the purposes of preventing their illicit trafficking.
4. For purposes of this Implementing Arrangement, "nuclear material" means plutonium, and uranium enriched to levels of 20% or higher in the isotope U-235. "Other radioactive material" includes, but is not limited to, radioactive sources suitable for use in radiological dispersal devices.

## Article 2

1. Each Party may, following written notification to the other Party, involve in the implementation of this Implementing Arrangement participation of other ministries, agencies or units of its respective government.
2. Each Party may, following written notification to the other Party, designate technical liaison representatives for use of the equipment, materials, training and services provided pursuant to this Implementing Arrangement
3. To achieve the objectives and fulfill the tasks stipulated in this Implementing Arrangement, the ASBG has the right to transfer free assistance received under this Implementing Arrangement from the DOE (or from its authorized implementing agents) to other ministries, agencies, establishments, organizations, and enterprises of Ukraine, subject to Article V, paragraph 2 of the Umbrella Agreement.

## Article 3

1. Assistance rendered to the ASBG or its authorized implementing agents by the DOE or its authorized implementing agents in the provision of equipment, supplies and materials, and in the conduct of training or rendering of services pursuant to this Implementing Arrangement, is to be provided based on their estimate of existing needs, and with consideration of the recommendations of the ASBG or its authorized implementing agents, in the following areas:
  - a. Creation and implementation of programs in the area of the prevention of illicit trafficking in nuclear material and other radioactive material;

- b. Development and provision of technical means and methods of detection and identification of nuclear material and other radioactive material;
  - c. Delivery and installation, at border crossing control posts, of equipment and devices adapted as appropriate for conditions at border crossing control posts in Ukraine, including testing, setup, and demonstration of the equipment and devices;
  - d. Delivery of spare parts kits, test equipment and other maintenance equipment to maintain equipment and devices;
  - e. Support for maintenance of the equipment provided by DOE, as set forth in a maintenance and sustainability plan mutually determined by the Parties;
  - f. Training of border guards of the State Border Guard Service of Ukraine and assigned personnel of other agencies concerned, as the Parties mutually agree, in detection of nuclear material and other radioactive material which are being moved illicitly through Ukraine's borders, and in the proper operation of the equipment and devices provided by DOE; and
  - g. Additional areas of cooperation as agreed by the Parties in writing.
2. The Parties may conduct technical workshops, consultations, site surveys, verification of equipment operability, and acceptance testing of materials and installed equipment. By agreement of the Parties, joint working groups of technical experts may be formed to exchange technical information and to make proposals on technical and training matters related to the effective implementation of this Implementing Arrangement.

3. The terms and conditions under which assistance may be provided under this Implementing Arrangement will be defined by separate contracts or other written arrangements between the Parties or their designated implementing agents. In case of any inconsistency between these contracts or arrangements and this Implementing Arrangement, the provisions of this Implementing Arrangement shall prevail.

#### Article 4

1. The ASBG or its designated implementing agents shall coordinate with other appropriate Ukraine government ministries, agencies and organizations to ensure that equipment, materials, services and training provided under this Implementing Arrangement are afforded priority processing to allow prompt issuance of permits, and equipment and materials deliveries to their ultimate destination within Ukraine.
2. The ASBG or its designated implementing agents shall coordinate with the appropriate Ukraine government ministries, agencies and organizations to ensure that appropriate security measures are provided to protect United States Government personnel and contractors at those facilities associated with work under this Implementing Arrangement, and to protect against theft or destruction of equipment, supplies and materials provided by DOE under this Implementing Arrangement.

#### Article 5

The ASBG shall facilitate the inspection, by appropriate Ukraine government ministries, agencies, and organizations, of all equipment, supplies and materials which are to be received under this Implementing Arrangement, and submit to the DOE, within 10 days, written confirmation of the acceptability of such equipment, supplies and materials, and that they conform to the specifications made available in advance to the ASBG. The ASBG shall also confirm the arrival of such equipment, supplies and materials at the destinations agreed by the Parties. The terms and conditions for repair or replacement of non-conforming equipment or materials will be set forth in the contract(s) under which equipment and materials are provided under this Implementing Arrangement.

#### Article 6

In addition to the audit and examination rights set forth in Article X of the Umbrella Agreement, DOE representatives shall have the right to monitor the implementation of terms of contracts and other written arrangements, and the progress of work under this Implementing Arrangement, at facilities at which work under this Implementing Arrangement or such contracts or other written arrangements is conducted within the territory of Ukraine.

#### Article 7

All questions regarding the interpretation or application of this Implementing Arrangement shall be resolved by means of consultations between the Parties.

Article 8

1. This Implementing Arrangement shall enter into force upon signature and shall remain in force for the duration of the Export Control Agreement. This Implementing Arrangement may be amended by written agreement of the Parties and may be terminated by either Party upon written notification to the other Party 90 days prior to its termination.
2. Ongoing activities not completed at the expiration or termination of this Implementing Arrangement may continue to completion under the terms of this Implementing Arrangement.

DONE at Washington the 8<sup>th</sup> day of April, 2005, and at Kyiv the 20<sup>th</sup> day of April, 2005, in duplicate, in the English and Ukrainian languages, each text being equally authentic.

FOR THE DEPARTMENT OF ENERGY  
OF THE UNITED STATES OF AMERICA:



FOR THE ADMINISTRATION OF THE  
STATE BORDER GUARD SERVICE  
OF UKRAINE:

